

**SUMMARY OF THE OFFICE ACTION**

1. Claims 1-17 have been **PROVISIONALLY** rejected under the Non-Statutory Ground of Obviousness-Type Double Patenting over at least claim 75 of copending U.S. Application 10/910713. Even though the previous response contained a Terminal Disclaimer with respect to that Pending Application, the Terminal Disclaimer has not yet been approved, so the rejection remains in a provisional state.

2. Claims 1-16 are rejected under 35 USC 103(a) as unpatentable over Published U.S. Application 20040063482 (Toyoda et al.) when considered with Published U.S. Patent Application 20020147987 (Reynolds).

3. Claims 17 is under 35 USC 103(a) as unpatentable over Published U.S. Application 20040063482 (Toyoda et al.), when further considered with U.S. Patent No. 6,731,416 (Hazzard).

**RESPONSE TO THE OFFICE ACTION – ARGUMENTS OF APPLICANT****1. Claims 1-17 have been rejected under the Non-Statutory Ground of Obviousness-Type Double Patenting over at least claim 75 of copending US Application 10/910,713.**

A Terminal Disclaimer has already been filed with respect to the cited applications. This rejection has been formally removed from the issues in this Office Action, pending approval by the PTO of the Terminal Disclaimer.

**2. Claims 1-16 are rejected under 35 USC 103(a) as unpatentable over Published U.S. Application 20040063482 (Toyoda et al.) when combined with the teachings of Reynolds et al. (U.S. Published Application 20020147987).**

The Non-Final Office Action has modified the original rejection set forth in the Final Office Action preceding the filing of the Request for Continued Examination, yet still overlooks the facts that even with the modifications in the rejection, the references do not provide a basis for obviousness of the subject matter as claimed. Applicants will first analyze the rejections themselves, showing that even if references are combined as suggested, the claimed invention is not constructed by the combination. Applicants will then show in greater detail how the combination of references does not show individual limitations in the claims.

**Summary of the Rejection**

It is first asserted (correctly) that Toyoda shows a bank of individual player displays associated with each player. It is again correctly asserted that the individual displays show virtual player cards and “captured player portraits” (citing Figures 2 and 3, wherein actually Figures 11 and 12c show this).

It is asserted that Toyoda teaches the incorporation of a picture in picture type display in a corner of each player display and then erroneously asserts that paragraphs [0113], [0114], and [0118] and [0119] relate to using kinetic images in the combined images on the player screen. This is a significant error that increases in importance as the rejection of the claims progress. These paragraphs (e.g., [0113, etc.] relate to the common display (screen 32, see [0113]. Even though the player screens 42, 52 are later mentioned in the paragraphs, there is never a disclosure, in any section of Toyoda of a “dynamic” background image (as recited in claims 1 and 3) or a “live” background image as recited in claim 2.

Toyoda shows only a portrait image (still life) pasted as an overlay (not background) onto the background of the player display 42 52, and not on the dealer image screen 32. Therefore, the rejection erroneously asserts that Toyoda teaches at least a dynamic background image on the dealer display monitor, when in fact Toyoda does not teach a dynamic or live background on any monitor, but only a still life or dynamic overlay on the player monitors 42, 52. There is no substantive showing of the underlying structure asserted to be shown by Toyoda. There is a clear failure in the asserted teachings of Toyoda that have not been recognized in the rejection and the inclusion of additional references does not correct that error.

The rejection then implies a structure and capability in Toyoda with respect to "utilize multiple video images in the formation of a composite image (*Toyoda* Figures 11, 12c, 13c) and previous citations of element 44, Paragraph [0070] and Figures 2 and 17 (Page 5, lines 5-9 of the Office Action). The multiple images actually referred to are devices "...in front of each display device 52 and this takes the image of the expression of the corresponding player and makes the taken image be displayed on display devices 52 that are visible to the other players." [0070] These multiple images, as shown in Figures 11 and 12c are actually not merged images, with one as a background to another, but are separate images, separately located and separately displayed on the player displays.

It is the position of Applicants, in view of the above analysis and the arguments presented in great detail below, that the rejection resolves itself to an assertion that even though Toyoda shows only a static background with a potentially dynamic image overlaying that background in a players monitor, it would be obvious to provide a dynamic background from one feed and overlay that dynamic background image with another image feed (which may also be dynamic) on a common viewing screen. This assertion is made in the total absence of supporting technical enablement and disclosure in Toyoda and in the absence of a suggestion to provide the common screen with the multiple feed functionality.

#### Remarks in the Rejections

The rejection asserts that arguments that the processor of Toyoda would be insufficient to merge two video feeds are in error because of Figures 4 and 13C of Toyoda. (emphasis added)

The fault in this position is that the description of the content of Figures 4 and 13C clearly show that the cited "expressions" of the players' features as images are **not merged**, but are merely juxtaposed. Note specifically Toyoda's description of Figure 4 from paragraphs [0117] – [0123]. The various images are shown on three separate video devices 32, 42 and 52. This is absolutely clear from the teachings of Toyoda explicit to Figures 4 and 13C. Note the specific statement in paragraph [0117] that "The image data to be displayed on display device 32 corresponds to display area R2, the image data to be displayed on display device 42 corresponds to display area 43, and the image data to be displayed on each display device 52 corresponds to display area R4." Even though Figure 4 gives a false impression of image overlay, the actual description and the schematic on Figure 3 clearly show three distinct display devices 32 42 52 and separate data fed to each display device. There is no merging of image data of a dealer on a background.

Additionally, the claim requires that "wherein the background comprises at least one dynamic image." It is impermissible to merely assert that every computer is capable of doing this. The claim requires this dynamic feed to be present and there is no disclosure or teaching of a dynamic feed merged with a dealer image. It is impermissible to assume functional capability and the use of the function capability and the provision of functional capability from any computer. The logical extreme extension from such a position is that any use of a computer is obvious as any computer could perform that function. That position is not in compliance with 35 USC 103(a) or U.S. Patent Office standards for rejection of structures containing computers with recites function and software.

The arguments by the US Patent and Trademark Office with respect to Figure 13C fail to recognize that those images and image devices are not the image functions or devices claimed by the present claims. **The images on devices 52A-D are the images on the player screens.** Note Figure 1 and the location therein of elements 52A 52B 52C and 52D. These are the player monitors. The function and objective of Figure 13C is not instructive of the subject matter of claims 1-17. The separate display areas for player images and card images on the player screens are not instructive of providing a merged image of a dealer image and a **dynamic background image**.

B(ii) The Office Action further asserts that Figures 4 and 15 show multiple feeds and the presentation of the multiple feeds on a common display... while the combination

of Toyoda and Reynolds is provided to replace a possibly static background of the dealer with a live background. The multiple feeds are for use on the player monitors 52 (A-D) **and not the recited functions of providing a dealer image on a dynamic background.**

Even if the proposed combination of replacing the “background” described in Toyoda with a video feed background of Reynolds were made, that replacement would occur on the players’ monitors and would not provide the method, function and structure recited in the claims, the combination of a dealer image with the dynamic background. Reynolds is a purely technical capability function and has no direct implications or teachings related to the gaming art or the objectives of the present technology.

The present technology allows the dealer display to be readily adjusted to the intent of the casino managers, with dealer images replaceable to match the make-up of the players, and dynamic background images replaceable to meets casino objectives of entertainment or thematic display. That concept and method is not disclosed by Toyoda in view of Reynolds. Toyoda must combine card images and player images on the separate areas of the player monitor to achieve desired Toyoda effects, but there is no suggestion or technical disclosure of:

software that merges the at least two multiple video images to form a composite image of a dealer against a background, ...

wherein the background comprises at least one dynamic image.

The combination of references fails to teach the subject matter of the claims or make that subject matter obvious to one skilled in the art.

The Examiner also asserts that the previous arguments do not consistently apply and discuss the terms of “dynamic image,” “video feed,” and the like. Applicants disagree. Applicants appreciate that a video feed within the content of the Reynold’s disclosure may be a dynamic image, but that the images of Toyoda are not combined in a display of a dealer image against a dynamic image background.

Additionally, claim 2 specifically recites a live feed as part of the merged background image, thus limiting the dynamic image to a live dynamic image from a camera.

**INDEPENDENT PATENTABILITY OF CLAIM 3 AND ALL CLAIMS  
DEPENDENT THEREFROM**

Additionally claim 3 recites that:

“...the processor having a file source feeding at least one set of video image data as a mask layer and at least one other set of video image data as an auxiliary dynamic background image for display of the merged image.”

Neither Toyoda nor Reynolds has been cited as showing the combination of the **THREE IMAGES** (as recited in the claim) in the first video display to combine the dealer image, the mask image and the dynamic background image. Claim 3 and each claim dependent therefrom is clearly novel and unobvious over the art cited in the rejection.

The addition of Reynolds, as analyzed below, does not begin to correct even the underlying deficiencies of Toyoda, much less the recognized deficiencies of Toyoda for which the Reynolds reference was cited.

It is further of importance to evaluate this rejection to view the actual limitations of the claims in comparison with the actual teachings of Toyoda et al.

<b>CLAIM 1 OF PRESENT APPLICATION</b>	<b>DISCLOSURE OF TOYODA ET AL. REFERENCE</b>
An automated wagering gaming event system comprising:	<b>SAME</b>
At least two distinct video displays, a first video display for showing a dealer in a card game and at least a second video display showing playing cards to individual players;	<b>SAME</b>
Playing cards to individual players;	<b>SAME</b>
at least one processor for enabling play of the wagering gaming event;	<b>SAME</b>
multiple player positions to enable multiple players to play the game;	<b>SAME</b>
Wherein the at least one processor is connected to at least two distinct feeds of video information so that the processor is fed the at least two different multiple video images and <u>contains software that merges the at least two multiple video images to form a composite image of a dealer against a background,</u>	<b>Rejection assumes capability in any processor. There is no specific disclosure of this capability in Toyoda et al.</b>

at least two separate feeds of video image information connected to sources of different video content that are fed into the processor <u>and are merged in the at least one processor and then displayed</u> on the first video display;	<b>Rejection assumes capability in any processor, but reference does not teach feed from separate image databases ON THE FIRST VIDEO DISPLAY (the virtual dealer display). The background and merged image of Toyoda et al. is only on the card display. The Background images of the Toyoda et al. card display is no more than a static background image of a table.</b>
Wherein the background comprises at least one dynamic image.	<b>Rejection assumes capability in any processor. The Toyoda et al. background image display is STATIC, not dynamic.</b>

The rejection essentially asserts that the recitation of the processor functionality is essentially only a recitation of the innate ability of a processor (such as shown by Toyoda et al.) in combination with the multiple viewing screens also shown by Toyoda. The claims were previously amended to include structural content of the processor and all essential additional hardware in addition to the elements already claimed.

All independent claims previously have been amended so that additional structure used in the enablement of the system and originally disclosed in the Application (generally and, for example, page 50) is recited in the claims. These structural elements added with the amendments recite specific structural features, feeds, connections, live video cameras, software in the at least one processor to merge separate feeds of video information, etc.

As the rejection over Toyoda et al. was based upon a concept of inherent capability of the system (asserted to have previously contained no structure that was not taught by Toyoda et al.) and as the claims now do recite structure that is not taught by Toyoda et al. (see the limitations added to the claims), the rejection is in error.

Equally important is the fact that Toyoda et al. shows only a static background for the playing cards (e.g., a simulated surface that remains stationary), while the claims recite that in the present invention, “...the background comprises at least one dynamic image.” There is no disclosure or enablement of a merged dealer image, or a merged image with the background including at least one dynamic image. The rejection fails to establish that the invention as a whole as claimed is obvious from the teachings of the art.

There are significant commercial and technical advantages and differences from the system as claimed and that shown by Toyoda. By enabling a dynamic feed into the dealer image, live feeds from the casino environment, local sights, sporting events, and unique "themed" background imagery may be fed into a standard dealer image format. As the play of the game remains the same for a dealer image and the rules of play, the gaming units may be tailored for use for each casino or different events by feeding a dynamic image into the background of the dealer. For example, the Venetian in Las Vegas, Nevada may have the identical dealer image, but feed a dynamic display of the gondola rides as a background. With the identical dealer image at the Paris, a background of the Champs Elysses may be displayed to maintain the casino ambiance. The ability to supply dynamic background feeds into the dealer image display enables the supplier to provide a standard game uniquely compatible with specific casinos and locations at very low costs. This is not disclosed by Toyoda et al., and is a non-obvious limitation of the invention.

Applicants have reviewed the specification of Toyoda et al. and do not find separate video feeds to the **dealer image**, do not find disclosure of separate video feeds **of the dealer and a dynamic background** to a processor, simultaneous feeding of video image data to a processor, software enabling merging of separate video feeds, and the like.

No live feed is present in Toyoda et al. The U.S. Patent and Trademark Office PAIR system has been accessed and the pending amended claim 2 also has no reference to live feed.

Although the Examiner has cited a number of Court and Board of Appeals decisions on the issue of "...the absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation...", the reliance on the general statements of the cases does not address the issues here. In the operation of the present technology, and as recited in the claims, there is software recited in the claims that performs the functions described. The cases do not support either inherency or obviousness of functionality from the mere presence of a processor, since specific software is required to perform these tasks, and the presence of that software is recited in the claims. To assert that all functionality is inherent in a processor, in the absence of a showing of that functionality in the art and the software to accomplish that functionality

is error. Additionally, there is no motivation from the art of record to provide that functionality and provide that software.

**The teachings of Reynolds do not cure the deficiencies of Toyoda et al.**

A review of the specification of Reynolds also shows that the only use of "live" is with respect to areas where people live, and there is no disclosure of a live feed combined in the dealer display. In that regard, both Toyoda et al. and Reynolds fail to show this limitation.

Reynolds shows providing two sources of video images, from different locations, combining the sources of video information at a specific site, and then forwarding that composite image to a separate location to display the combined image. This is specifically described as:

0011] The present invention may therefore comprise a method of locally generating a composite video signal at a viewer location comprising: generating a first video signal; generating a second video signal; generating a presentation description at a location that is remote from the viewer location; **transmitting the presentation description to the viewer location; transmitting the first video signal and the second video signal as multiple video signals to the viewer location;** generating control signals from the presentation description; and combining the multiple video signals in accordance with the control signals to produce a composite video signal, the composite video signal comprising a portion of the first video signal and a portion of the second video signal wherein the portion of the first video signal and the portion of the second video signal are displayed simultaneously. (**Emphasis added**)

Reynolds does not show a stored image content at a gaming location, provision of a second image at the same gaming location, combining the images at the gaming location, and displaying the images at the same gaming location wherein the combined images are of a dealer in a game and a dynamic background. Note for instance the detail and specificity of claims 7-10 with regard to even the storage of the image signals. The disclosure of Reynolds teaches away from the system recited in these claims as it appears to be more of a central service for providing combined images at distinct and different locations from a single processor source of combined images.

It is also not seen that Reynolds specifically shows dynamic images as the background image, and clearly does not show dynamic background images combined in a gaming apparatus, at the gaming site as the backdrop for a dealer in a casino multiplayer wagering game.

As neither reference enables or teaches the limitation of a dynamic background feed, the rejection must fail as a matter of law and as a matter of the facts in the rejection.

It is to be further noted that these types of limitations are present in other independent claims, such as claim 3 wherein there is the further distinguishing limitations of:

“wherein at least one of the processors is transmission connected to separate feeds for at least three different sets of video image data and the at least one processor has software therein that is executed and merges the at least three multiple video images to form a composite image of a dealer against a background.

a feed to the first video display screen that carries the composite image;

the processor having a file source enabling feeding at least one set of video image data as a mask layer and at least one other set of video image data as an auxiliary dynamic background image for display of the merged image. (emphasis added)

Neither Toyota nor Reynolds discloses these aspects of the claimed invention in their respective or collective disclosures.

It is to be further noted that claims 12-14 all contain limitations as to structure in the device that is not disclosed by Toyota et al. and is not taught by Reynolds (which is not even relevant to the gaming table structure of the claims). The limitations of technical import are:

“...each player position has an individual player processing board dedicated to that position...”

There is no art of record and applicants are not aware of any art that teaches this limitation. The player positions have player input function, but all processing function is performed elsewhere in the system, and none is performed separately at each player position. For example, look at FIG. 2, which clearly shows button or touchscreen entry, signals sent through interface circuit sets to other processors. There is no processor dedicated to each of the player positions shown in this configuration or elsewhere disclosed by Toyota. This feature is novel and unobvious over any disclosure used in the rejection.

Individually and collectively, the combination of references fails to teach the subject matter claimed as a whole.

**3. Claims 17 is under 35 USC 103(a) as unpatentable over Published U.S. Application 20040063482 (Toyoda et al.) in view of Reynolds et al. (U.S. Published Application 20020147987), when further considered with U.S. Patent No. 6,731,416 (Hazzard).**

This rejection must fail at least for the reasons presented directly above with respect to the rejection of claims 1-16 under 35 USC 103(a) over Toyoda et al. in view of Reynolds et al. (U.S. Published Application 20020147987).

Even if Hazzard does show the structure for which it is cited (the screen guard), it does not show the structural features that have been shown to be absent from Toyoda et al. in view of Reynolds with respect to the claims from which claim 17 depends. This rejection must be withdrawn.

**CONCLUSION**

All rejections have been shown to be overcome by the previously submitted Terminal Disclaimer or by previous Amendment. All rejections should be withdrawn, all claims should be allowed and the Application passed to Issue. If the Examiner believes that some issues may be further overcome by an interview with the Attorney of Record (either by telephone or in person), the Examiner is respectfully requested to call the attorney of record at 952.832.9090 (CST) at his convenience.

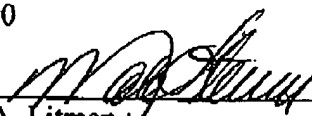
Respectfully submitted,

PHILIP S. SMITH, et al.

By Their Representatives,

MARK A. LITMAN & ASSOCIATES, P.A.  
York Business Center, Suite 205  
3209 West 76<sup>th</sup> Street  
Edina, Minnesota 55435  
(952) 832-9090

Date: 14 DECEMBER 2007

By:   
Mark A. Litman  
Reg. No. 26,390

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being sent by facsimile to the US Patent and Trademark Office addressed to: Mail Stop: AMENDMENT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 14 DECEMBER 2007.

Mark A. Litman  
Name

  
Signature